

BARNES & THORNBURG LLP

<http://www.btlaw.com>

Kelly J. Hartzler
Direct Dial: (574) 237-1184
E-mail: Kelly.Hartzler@btlaw.com

700 1st Source Bank Center
100 North Michigan Street
South Bend, IN 46601-1632
Main Line: (574) 233-1171
Fax: (574) 237-1125

July 17, 2014

VIA FEDERAL EXPRESS & E-MAIL

Leslie Blake, Remedial Project Manager
U.S. Environmental Protection Agency, Region 5
Superfund Division (SR-6J)
77 West Jackson Boulevard,
Chicago, IL 60604-3590

Re: Request for Information Pursuant to Section 104(e) of CERCLA
Lane Street Groundwater Contamination Site, Elkhart, Indiana
CERCLIS ID No. INN00510229

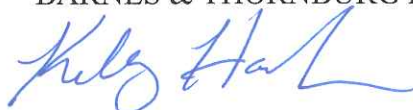
Dear Ms. Blake:

On behalf of Flexsteel Industries, Inc. ("Flexsteel"), we are submitting the enclosed response to the above-referenced information request (the "Information Request"). As Flexsteel received the Information Request on or about June 6, 2014, this response is timely.

Please feel free to contact me should you have any questions regarding this response.

Sincerely,

BARNES & THORNBURG LLP



Kelly J. Hartzler

KJH/bej
Enclosures

FLEXSTEEL INDUSTRIES, INC.

Response and Objections to Request for Information Pursuant to 104(e) of CERCLA for Lane Street Groundwater Contamination Site, Elkhart, Indiana CERCLIS ID No. INN00510229

The following are the Responses and Objections of Flexsteel Industries, Inc. ("Flexsteel") to the June 3, 2014 Request for Information Pursuant to 104(e) of CERCLA regarding the Lane Street Groundwater Contamination Site, Elkhart, IN, CERCLIS ID No. INN00510229. A list of all persons contributing information to Flexsteel's Responses to this Information Request, along with a set of General Objections which Flexsteel incorporates in the following Responses to each numbered Request, are set forth below. A CD containing responsive documents is enclosed.

PERSONS CONTRIBUTING INFORMATION

- Carl Breen, Controller, Flexsteel Industries, Inc.
- Kelly J. Hartzler, Attorney for Flexsteel Industries, Inc., Barnes & Thornburg LLP

GENERAL OBJECTIONS

- Flexsteel objects to the Information Request to the extent it seeks to impose upon it obligations which are beyond those authorized to be imposed under 42 U.S.C. § 9604(e).
- Flexsteel objects to the Instructions for the Information Request to the extent it would require it to seek information in the possession or control of persons not under its control, or to furnish information not based on personal knowledge. Flexsteel further objects to these Instructions to the extent they seek information protected by the attorney-client privilege or which constitutes attorney work product.
- Flexsteel objects to Instruction 5 in the Information Request to the extent it purports to require supplemental responses which is not authorized under 42 U.S.C. § 9604(e).
- Flexsteel objects to the requirement that this response be certified because nothing in 42 U.S.C. § 9604(e) requires or authorizes U.S.EPA to impose such a requirement.
- Submission of the following Responses should not be construed as waiver of any objection and Flexsteel reserves all its rights, privileges and defenses. Flexsteel also asserts that its investigation is ongoing and reserves the right to supplement its response later if necessary. Please feel free to contact Kelly Hartzler should you have any questions regarding this Response.

RESPONSES TO REQUESTS

1. Identify the parcel or parcels related to the Site and delineated in Definition No. 10, above, that you owned or operated, and state the period of time during which you owned or operated the parcel or parcels. At the time you acquired or began operating the Site, did you know or have reason to know that any hazardous substance was disposed of on, or at the Site? Describe all investigations of the Site you undertook prior to acquiring the Site and all of the facts on which you base the answer to the preceding question.

RESPONSE:

On March 18, 1997, Flexsteel purchased limited assets of Dygert Seating, Inc. ("DSI") out of bankruptcy. The same day, Flexsteel purchased the property and improvements on 2503 Marina Drive (then 53381 Marina Drive) and 3507 Cooper Drive (then 23542 Cooper Drive) from David and Phyllis Dygert. Flexsteel operated a "Dygert Seating Division of Flexsteel" at both properties until approximately 2000, when the Dygert Seating Division of Flexsteel ceased operations at the Cooper Drive property. On December 31, 2001, the Dygert Seating Division of Flexsteel ceased operation at the Marina Drive property.

On January 2, 2002, Flexsteel sold the assets of its Dygert Seating Division to PBD Corporation. On the same date, Flexsteel leased the Marina Drive property to PBD Corporation. Flexsteel then sold the real property and improvements at Marina Drive to LDL Realty Company, LLC on approximately August 5, 2004.

On approximately June 15, 2002, Flexsteel leased the Cooper Drive property and its improvements to Partners Supply. On approximately February 28, 2005, Flexsteel sold the Cooper Drive real property and its improvements to Fred Lands.

At the time that Flexsteel acquired and began operating at the Marina Drive and Cooper Drive properties, Flexsteel had every reason to believe that no hazardous substance was disposed of on or at those properties. Flexsteel engaged Weaver Boos Consultants, Inc. to conduct a Phase I Environmental Site Assessment ("ESA") in conjunction with the 1997 bankruptcy sale. As part of this Phase I ESA, and consistent with ASTM standard practice, Weaver Boos toured the properties and also reviewed records obtained by FOIA requests from various state and local agencies and obtained relevant environmental reports on the subject properties, which are appended to the Phase I ESA. This Phase I ESA, dated February 6, 1997, stated that there was "no evidence of recognized environmental conditions in connection with" the properties. Allendale Mutual Insurance also toured the Elkhart properties on January 8, 1997 to gather "property loss prevention" information and drafted a report including an "exposure analysis" which stated: "There are no inherent exposures. There are no high hazards or significant amounts of flammable liquids or flammable paints being used."

Available documents evidencing the ownership and leases of the properties described above have been enclosed, along with the February 6, 1997 Phase I ESA and January 8, 1997 Allendale Mutual Insurance report.

2. Describe the nature of your activities or business at the Site, with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials at the Site.

RESPONSE:

The Dygert Seating Division of Flexsteel was a "cut and sew" operation through which vehicle seats were assembled. Before the Dygert Seating Division of Flexsteel closed the frame shop at the Cooper Drive property, frames were welded at that property and then taken over to the Marina Drive plant. At the Marina Drive plant, pre-fabricated foam purchased by the Dygert Seating Division of Flexsteel was placed on the frames, and then fabric that had been cut and sewn at the Marina Drive plant was rolled over the foam and secured with hog rings or other metal clips to form a seat.

No operations or maintenance personnel that were employed during the 1997-2001 period Flexsteel operated its Dygert Seating Division are currently employed at Flexsteel, so a detailed account of the requested activities at the Dygert Seating Division of Flexsteel over a decade ago cannot be provided. However, on information and belief, purchasing agents at the Dygert Seating Division of Flexsteel purchased products for that Division. Most waste was non-hazardous, and was deposited into a compactor and dumpster on the north side of the Marina Drive plant for off-site disposal by Himco Waste-Away Services. To the extent hazardous substances, mostly consisting of aerosol products, were used inside the buildings, these products were received into the Marina Drive plant, where they were stored within a fenced "cage" inside the plant or in fire-proof cabinets. Empty aerosol cans were thrown in the trash, which was emptied into the Himco dumpster. Liquid wastes, including non-hazardous sewing oil and liquids such as antifreeze or unevaporated materials pertaining to the cleaning of glue guns (prior to the installation of water-based glue), reportedly were collected in a 55 gallon drum inside the Marina Drive building. Safety Kleen and/or SER reportedly removed this waste material for off-site recycling or disposal as needed. Empty adhesive drums were stored inside the Marina Drive building for return to the supplier.

Although Safety Kleen and SER no longer have complete records pertaining to the Dygert Seating Division of Flexsteel, available records are enclosed, as well as available Himco records.

No on-site disposal of hazardous substances at either of these properties has been confirmed by the extensive sampling conducted by IDEM, U.S. EPA and Flexsteel. In addition to the pre-purchase ESA referenced above, a July 3, 2002 Phase I ESA of both properties, conducted by Weaver Boos for Flexsteel, provides further information on hazardous materials and waste disposal and is also enclosed. The 2002 Phase I concludes that there is "no evidence of recognized environmental conditions" at either property.

3. Describe any manufacturing processes used on the Site, give a list of the chemicals used in the manufacturing process either as a component employed in the formulation of an object, made for sale or use offsite or onsite, or as a reagent in the manufacturing process, or

as an item utilized in maintenance activities.

RESPONSE:

Flexsteel objects to this question as overbroad and not likely to lead to the discovery of information pertinent to the Lane Street Groundwater Contamination to the extent that it seeks information regarding a "Site" consisting of a broad area encompassing many former and current facilities and other operations over an unlimited time period, and also regarding chemicals that the U.S. EPA has not identified as components of the groundwater contamination. *See* EPA CERCLA 104(e) Request, at Enclosure 1.

Subject to these objections, Flexsteel has made an exhaustive investigation of historic chemical usage by the Dygert Seating Division of Flexsteel. To the extent that investigation has identified any products containing chemicals of potential interest to the U.S. EPA, Flexsteel identifies those products and provides Material Safety Data Sheets in response to Question #6.

During Flexsteel's Operation of the Marina and Cooper Drive Plants

The Dygert Seating Division of Flexsteel assembled metal frame vehicle seating, which involved minimal chemical usage. The primary hazardous substance on site was an adhesive which was used inside the plant to glue a small portion of each vehicle seat, prior to the installation of the water-based glue system in approximately 2001. Prior to water-based glue, the Dygert Seating Division of Flexsteel utilized a methylene-chloride based adhesive called Premium Adhesive, which the Division purchased either from Chem-Tech or from Vahala Foam (a supplier of the Dygert Seating Division of Flexsteel located on the southwest corner of the intersection of Marina and Cooper Drives which reportedly used the same glue) in 55-gallon drums. According to contemporaneous records, glue guns were cleaned with methylene chloride, mineral spirits, MEK, or toluene purchased from Rollie Williams Paint Spot. To the extent aerosol cans of adhesive were used, purchasing records indicate that the glue was either Spray Rite Spray Adhesive from Chem-Tech, or Bender's Adhesive from Benders Wholesale. The Dygert Seating Division of Flexsteel also used silicone aerosol spray to slip fabric over foam. Contemporaneous records indicate that the silicone purchased during this period was Spray Rite Silicone (Chem Tech). Other chemicals used to clean grease spots off fabric during the period 1997-2001 reportedly were hair spray, Simple Green, or the same liquid used to clean glue guns, among other substances like soap and water. Sewing machines used sewing machine oil, which was reportedly non-hazardous. One or two maintenance employees used the aerosol C-60 to clean small components on the sewing machines and other equipment around the Marina and Cooper Drive plants. This aerosol spray can product may have been used by a few other employees for miscellaneous purposes, such as cleaning glue off their hands. Various oils were also used in equipment at the Cooper Drive plant or in sewing machines at the Marina Drive plant.

Flexsteel encloses available purchase records obtained from vendors Chem Tech and Rollie Williams Paint Spot, as well as an excel spreadsheet containing Dygert Seating Division of Flexsteel purchase records for approximately 2000-2001, which are the only purchase records that Flexsteel now has for that Division. Flexsteel further provides 1997 and 2002 Phase I ESAs, a 1998 Health & Safety Audit referencing chemicals on

site, and Elkhart County Health Department inspection records which list chemicals on site in 1999 and 2001 at the properties.

Other Operators at the Marina and Cooper Drive Plants

To the extent this Request intends to seek information regarding operators other than the Dygert Seating Division of Flexsteel at the Marina Drive and Cooper Drive Plants, available records indicate:

Before Flexsteel's Dygert Seating Division operated at the Marina and Cooper Drive properties, the company DSI used methylene chloride as an "upholstery cleaner." Records also indicate that DSI used a trichloroethane ("TCA") based adhesive, together with adhesives containing toluene/acetone and/or methylene chloride, until approximately 1994. By 1994, available records indicate that DSI was only using methylene chloride based adhesive. DSI also used Spray Rite Silicone Spray from Chem Tech, toluene, lacquer thinner, Bender's Silicone Spray, and a few other miscellaneous cleaners, adhesives, and oils. A 1993 Phase I ESA reported "adhesives, very little solvents, paints" as being used in the manufacturing process, and "misc. cleaning fluids and very little solvents" used in cleaning equipment by DSI.

After the Dygert Seating Division of Flexsteel stopped operating at the Marina and Cooper Drive properties, available records indicate that PBD Corporation and/or one of the other entities operating at the Marina Drive Plant used methylene chloride, Spray Rite Silicone, SP6 Spray Adhesive, and Premium Adhesive from Chem Tech, and Bender's Spot Remover. Records also indicate the miscellaneous usage of the aerosol SR Clean, Simple Green, sewing oil, and a few other cleaners or degreasers in small quantities.

Flexsteel encloses available purchase records pertaining to these periods from Rollie Williams Paint Spot and Chem Tech, Elkhart County Health Department Records identifying chemicals on site, and two lists of hazardous materials created by a former maintenance employee who worked at the plants from 1994 to 2007 (for DSI, the Dygert Seating Division of Flexsteel, and then entities operating at the Marina Drive plant thereafter). The typed list comes from a Hazard Communication book reportedly created in approximately 1993 or 1994, which was further updated over time. The handwritten list is undated and believed to be from approximately 1996.

Other Operators within the "Lane Street Groundwater Contamination" Site

In the course of investigating claims made by attorneys from Taft, Stettinius & Hollister LLP in private party litigation related to the former Dygert Seating Division of Flexsteel (among other entities), Flexsteel discovered evidence of usage and releases of VOCs at various other locations within the broadly defined "Site," such as PERC, TCE, TCA, 1, 2-dichloroethane (1,2-DCA), and 1,1-dichloroethene (1,1 DCE) at the properties now known as 3504 & 3506 Henke (former Environmental Test Systems) and 2601 Marina Drive (former RE Jackson).

For example, on August 15, 1984, an Elkhart County Health Department inspection of the RE Jackson facility identified a floor drain piped directly to a septic tank, and observed a drum of TCA being used in operations. On March 3, 1995, septic samples at that property revealed the presence of PERC, 1, 2-DCA and TCE, among other

chemicals. In May 2013, a court assisted with sampling access to this property, where results identified TCE contamination in the top two feet of soil in two separate samples taken approximately five feet of the southern wall of this building (sample points PB-9 and PB-11). This sampling also identified PERC and TCE in the shallow water at eight sample points directly to the south of the building, including 380 ppb PERC and 120 ppb TCE at the water table (sample point PB-9). In November 2013, a court-ordered permanent monitoring well at the location of sample point PB-9, detected 410 ppb of PERC and 88 ppb TCE (MW-16s). These results were confirmed by split samples taken by another consultant. The sample points where soil and shallow groundwater contamination were detected lie directly south of a historic open gravel courtyard (shown in 1986 aerial photos) that once lay between two separate buildings on the RE Jackson property, but which is now covered. Further, this historic courtyard is directly in alignment with, and upgradient to, the Lane Street Groundwater Contamination. The centerline of the Lane Street contamination may be traced directly to the location of sampling point PB-9 and MW-16s. Flexsteel has given EPA keys to its monitoring wells, including MW-16s on 2601 Marina Drive, but EPA appears to have excluded MW-16s from its quarterly sampling activities. Health Department records for RE Jackson, the 1986 aerial photos, and sampling data are enclosed.

In addition, Elkhart County Health Department records indicate that in 1992, the septic tank located on the eastern side of the Environmental Test Systems building (now 3504/3506 Henke) contained 2,770 ppb of TCA, 90 ppb of 1, 1-dichloroethane (1,1-DCA), and 1940 ppb of 1,1- dichloroethene (1,1 DCE). The eastern septic tank also aligns with the Lane Street Groundwater Contamination. Health Department records for Environmental Test Systems, including a map of these septic locations and sample results, are enclosed. Additional records which provide information into Environmental Test Systems' chemical usage are available on IDEM's Virtual File Cabinet.

4. Provide a list of any chemical substances produced in the manufacturing processes employed onsite, any chemical substances which become byproducts of the manufacturing process, the chemical composition of any sludges or liquids or other production wastes resulting from the manufacturing process. Summarize in a short narrative the equipment used to treat such waste materials, transport such waste materials, or dispose of such waste materials.

RESPONSE:

They Dygert Seating Division of Flexsteel was a "cut and sew" operation through which vehicle seats were assembled. On information and belief, no chemical substances were produced during, or as a byproduct of, the manufacturing processes of the Dygert Seating Division of Flexsteel. Metal frames were not degreased. Adhesive was used until containers were empty, and fabric cleaners evaporated after being sprayed or rubbed onto fabric spots. Empty aerosol cans were disposed of in the general trash, which was removed by Himco Waste Away Services for off-site disposal. With respect to maintenance and equipment cleaning, waste sewing machine oil, unevaporated liquids from cleaning gluing equipment, and other miscellaneous liquids such as anti-freeze were collected and removed by Safety Kleen and/or SER (see response to Question #2) as needed. On information and belief, DSI, which operated before Flexsteel at the

Marina Drive and Cooper Drive plants, generated similar wastes and disposed of these wastes in the same ways.

5. If the manufacturing processes used on the Site involve the utilization of rinse water, give a description of the equipment and transportation mechanisms used to segregate hazardous substances from the water before it is discharged into navigable waters through an outfall permitted by a National Pollution Discharge Elimination System (NPDES) permit. Provide copies of all such permits granted in conjunction with Site operations. Describe the composition of any sludge material recovered from the cleanup processes of such rinse waters; give the means used to transport these sludges to disposal points and list any or all such deposition locations.

RESPONSE:

The operation of Flexsteel's Dygert Seating Division did not utilize or discharge rinse water. On information and belief, DSI and the other entities that operated at the Marina Drive Plant and Cooper Drive Plant also did not utilize or discharge rinse water.

6. Did you ever use, purchase, generate, store, treat, dispose, or otherwise handle at the Site any hazardous substances? If the answer to the preceding question is anything but an unqualified "no," identify:

- a. In general terms, the nature and quantity of the non-hazardous substances so transported, purchased, generated, stored, treated, disposed, or otherwise handled.
- b. The chemical composition, characteristics, physical state (e.g. solid, liquid) of each hazardous substance so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled.
- c. The persons who supplied you with each such hazardous substance.
- d. How each such hazardous substance was used, purchased, generated, stored, treated, transported, disposed, or otherwise handled by you.
- e. When each such hazardous substance was used, purchased, generated, stored, treated, transported, disposed, or otherwise handled by you.
- f. The quantity of each such hazardous substance used, purchased, generated, stored, treated, transported, disposed, or otherwise handled by you.

RESPONSE:

Flexsteel objects to this question as overbroad and not likely to lead to the discovery of information pertinent to the Lane Street Groundwater Contamination to the extent it seeks information regarding a "Site" consisting of a broad area encompassing many former and current facilities and other operations over an unlimited time period, and also "hazardous substances" not limited to the chemicals identified by EPA as components of the Lane Street Groundwater Contamination. Flexsteel interprets this question to seek information regarding those chemicals. Accordingly, Flexsteel limits

its answer to substances containing trichloroethylene (TCE), trichloroethane (TCA), 1, 1, dichloroethane (1,1-DCA), 1,1- dichloroethylene (1,1-DCE), cis-1,2-dichloroethylene (cis-1,2-DCE), trans 1,2- dichloroethylene (trans-1,2-DCE), and tetrachloroethylene (PCE). *See* EPA CERCLA 104(e) Request, at Enclosure 1.

Subject to the foregoing objections, and after exhaustive research, Flexsteel has only identified four aerosol spray can products containing any of the above chemicals which were used by the Dygert Seating Division of Flexsteel:

- (1) An aerosol spray called C-60, which contained TCE. On information and belief, C-60 primarily was used by one or two maintenance employees for maintenance activities such as to clean the cutting knives on various pieces of equipment, though various other employees may have used it for miscellaneous purposes such as cleaning their hands or spots of glue off of fabric. Flexsteel has no purchase records for this product, and no supplier has been identified. Usage has been estimated at two aerosol spray cans a week in maintenance, with four or five other aerosol spray cans available for use by other departments in the Marina Drive plant, where they were used at a rate of approximately one can a month.
- (2) The glue 604 High Temperature Flexible Foam Adhesive, which was an adhesive that came in an aerosol spray can. Benders Wholesale informed Flexsteel that the product formulation for this aerosol spray adhesive, though predominantly methylene chloride, contained less than 1/2 an ounce of TCE, and 1/2 an ounce of PERC. On information and belief, this aerosol adhesive predominantly was used on an infrequent basis by research and design employees, to make repairs, or to glue some portion of the arms for vehicle seats. Available purchase records indicate that a "Benders adhesive" was used on an average rate of six cans per week in 2001, across the entire Dygert Seating Division of Flexsteel operation.
- (3) An aerosol spray called "SR Clean" (a/k/a Spray Rite Safety Solvent & Degreaser) was reportedly only purchased by the Dygert Seating Division of Flexsteel two times, in the last six months of 2001. Each of these purchases was for 2 cases of 12 aerosol spray cans. This product was likely sampled as a fabric spot remover. Purchase records indicate that one of the entities that operated at the Marina Drive plant after the Dygert Seating Division of Flexsteel also purchased this aerosol product.
- (4) A few cans of the aerosol "LPS Instant Super Cleaner/Degreaser" were listed on a 1997 inventory record. This aerosol product reportedly then-contained TCA. On information and belief, this product was used in maintenance. It does not appear to have been purchased after 1997.

Three other products which, at some point, contained one or more of the chemicals of interest to the U.S. EPA also appear to have been used by one or more of the other occupants of the Marina and/or Cooper Drive plants, but on information and belief, were not used by the Dygert Seating Division of Flexsteel.

First, the aerosol spray Bender's Fabric Cleaner & Spot Remover, which appears on the undated handwritten notes of a maintenance employee who worked at the plants from 1994 to 2007. This aerosol spray reportedly was made with TCA and PERC in 1997, and was reportedly re-formulated with TCE and PERC sometime in the last

decade. This product does not appear on any inventory or purchasing records available to Flexsteel for the Dygert Seating Division of Flexsteel. Therefore, Flexsteel does not believe it was used during the 1997-2001 time period in which the Dygert Seating Division of Flexsteel operated. This product was reportedly one of several anti-spotting agents used, including Windex, Simple Green, and soap and water.

Second, a small can of Carbo-Sol ("Sunnyside trichloroethylene") identified on the undated, handwritten notes of a former maintenance employee (described in response to Question #3 above). This product does not appear on any inventory or purchasing records for the Dygert Seating Division of Flexsteel. On information and belief, it was purchased once by a maintenance employee to clean some metal doors. Sunnyside Corporation has verified that while it has sales records back to the 1970s, it has no record of distributing trichloroethylene to any entity operating at the Marina or Cooper Drive properties. Sunnyside, however, retailed trichloroethylene in pint, quart, and gallon containers through hardware and paint stores under the name "Carbo-Sol" until 2006. Accordingly, Sunnyside's information is consistent with the other information Flexsteel has been told about the acquisition and minimal usage of this retail product.

Third, documents indicate that DSI used a TCA-based adhesive prior to 1994.

Material Safety Data Sheets and available purchase records supporting the above are enclosed.

Notwithstanding contemporaneous records regarding actual chemical usage at the Marina and Cooper Drive plants, attorneys from Taft Stettinius & Hollister LLP, on behalf of their private plaintiffs in tort litigation, created a few affidavits for former employees at the Marina and Cooper Drive plants (some of whom never worked for Flexsteel) in support of two lawsuits those attorneys filed in 2011. These lawyer-drafted affidavits purported to contain "memories" that buckets and drums of liquid TCE were used and released at the Marina Drive plant. All of these former workers later recanted their lawyer-drafted affidavits as false either by subsequent affidavit or in deposition testimony. None of these lawyer-drafted affidavits are consistent with contemporaneous records regarding actual chemical usage at the plants. In addition, none of the affidavits were verified by Flexsteel, U.S. EPA, or IDEM's extensive soil and groundwater sampling at the Site, which confirmed clean soil and clean shallow groundwater across the Marina Drive and Cooper Drive properties. *See Answer to Request #14.*

7. Identify all federal, state and local authorities that regulated the Site Operator and/or that interacted with the Site Operator. Your response is to address all interactions and in particular all contacts from agencies/departments that dealt with health and safety issues and environmental concerns.

RESPONSE:

On behalf of Flexsteel with regard to the Marina Drive and Cooper Drive plants: the Elkhart County Health Department periodically inspected the Dygert Seating Division of Flexsteel, including in at least 1999 and 2001 (Marina Drive Plant) and in 1997 and 1999 (Cooper Drive Plant). Documents indicate that OSHA also conducted an

inspection in September 2000. Available records are enclosed.

8. Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning the Site during the time period in which you owned or operated at the Site. Provide copies of all documents associated with such an occurrence.

RESPONSE

On January 7, 1999, the Elkhart County Health Department cited the Dygert Seating Division of Flexsteel for not timely providing a wastewater characterization (septic tank sample) at the Cooper Drive plant. The Dygert Seating Division of Flexsteel complied in February 1999.

On September 29, 2000, OSHA inspected the Dygert Seating Division of Flexsteel, citing the Division for violating OSHA standards regarding "general standards for machines," "abrasive wheel machinery," "handling materials - general" (related to 29 CFR 1910.176 for use of mechanical equipment), "wiring methods, components and equipment for general use," "bloodborne pathogens," and "hazard communication." None of these citations resulted in fines except for two machinery-related citations. Available records indicate that all issues were "abated" no later than October 12, 2000.

In October 2000, the Dygert Seating Division of Flexsteel reportedly contacted the Elkhart County Health Department to request instruction on how to clean up a small spill of oil, reportedly called "HD 68 Way Oil." Available records indicate that the Health Department instructed the Dygert Seating Division of Flexsteel to remove at least six inches of soil below site/or smell of oil, and dispose of it, which a maintenance employee reportedly did.

Available records are enclosed.

9. Provide a list of all local, state, and federal environmental permits ever granted for your activities or business at the Site (e.g., RCRA permits, NPDES permits, etc.).

RESPONSE:

On information and belief, no such permits were required for the operations of the Dygert Seating Division of Flexsteel; therefore, no permits were requested or granted.

10. Did you ever file a Hazardous Waste Activity Notification under the Resource Conservation and Recovery Act (RCRA)? If so, provide a copy of such notification.

RESPONSE:

On information and belief, the Dygert Seating Division of Flexsteel never filed a Hazardous Waste Activity Notification, and would have been at most a conditionally exempt small quantity generator.

11. Did the Site ever have "interim status" under the Resource Conservation or Recovery Act (RCRA)? If so, and the Site does not currently have interim status, describe the circumstances under which the Site lost interim status.

RESPONSE:

On information and belief, the Dygert Seating Division of Flexsteel never had "interim status" under RCRA.

12. Provide all reports, information or data related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Site. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

RESPONSE:

In cooperation with IDEM, Flexsteel has performed an extensive soil and groundwater investigation beginning to the north of 2601 Marina Drive and proceeding down to C.R. 106 in order to evaluate the unsupported assertions of the law firm Taft, Stettinius & Hollister LLP that the contamination "came from" the former operations at 2503 Marina Drive, notwithstanding the minimal evidence that products containing PERC, TCE, or TCA were even used by the Dygert Seating Division of Flexsteel. Flexsteel's investigation has included 324 groundwater samples and 312 soil samples, with the installation of 79 permanent groundwater monitoring wells, to which Flexsteel has given U.S. EPA total access. In addition to these sampling efforts, Flexsteel has conducted further hydrogeologic investigation which has confirmed the correctness of Flexsteel's conceptual site model for the Lane Street site, summarized in December 20, 2012 and April 22, 2013 letters from Roberts Environmental Services to IDEM (enclosed).

The 282 soil samples taken by Flexsteel on its former properties confirm that the soil at the Marina Drive and Cooper Drive properties is clean (unlike the soil at 2601 Marina Drive, where Flexsteel detected TCE in soils in May 2013, and EPA detected TCE in soil gas in October 2013). The soil and groundwater data further confirm that the groundwater contamination at issue is passing underneath this clean soil and clean shallow water at the Cooper Drive and Marina Drive properties from an upgradient source located at 2601 Marina Drive, likely from underneath the building on that property. An Alt & Witzig investigation commissioned by the current owner of the 2503 Cooper Drive, Fred Lands, also agrees that the contamination is migrating underneath 2503 Cooper Drive from an off-site source.

Reports, sampling results, aerial maps, and other documents pertaining to Flexsteel's environmental site investigation are enclosed.

13. Describe the acts or omissions of any persons - other than your employees, agents, or those persons with whom you had a contractual relationship - that might have caused the release of hazardous substances at the Site, and identify such persons.

RESPONSE:

As Flexsteel states in response to Questions #3 and #12, multiple lines of evidence confirm that the most likely source of the Lane Street Groundwater Contamination is located at 2601 Marina Drive, with a potential secondary contributing source from the historic east septic at 3504/3506 Henke. Flexsteel refers EPA to its responses to Questions #3 and #12 above, as well as the documents referenced therein.

14. Identify all leaks, spills, or releases into the environment of any hazardous substances, pollutants, or contaminants that have occurred at or from the Site. In addition, identify:

- a. When such releases occurred;
- b. How the releases occurred (e.g. when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units), and treated).
- c. The amount of each hazardous substances, pollutants, or contaminants so released;
- d. Where such releases occurred;
- e. Any and all activities undertaken in response to each such release or threatened release, including the notification or any agencies or governmental units about the release.
- f. Any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and surface), or air testing undertaken; and
- g. All persons with information relating to these releases.

RESPONSE:

Flexsteel has not verified any releases of hazardous substances to the environment at the Marina Drive or Cooper Drive properties.

In 2011, attorneys from Taft Stettinius & Hollister LLP on behalf of various private plaintiffs seeking money damages sued Flexsteel and others on the theory that IDEM's 2008 sampling data showed a contaminant source in the southwest corner of 2503 Marina Drive property, even though IDEM's stated position was that IDEM's 2008 data did not identify a source of the groundwater contamination, which IDEM also stated appeared to be located further upgradient from 2503 Marina Drive. *See* 12/5/2008 Hazard Ranking System Document Record (K. Spindler), at 4 (“[T]he available data suggests that deep zone contamination from an upgradient source is migrating into the study area.”) The Taft lawyers later created affidavits for a few former workers purporting to recall releases of solvent along the south side and southwest corner of the Marina Drive plant, mostly during the DSI years. These lawyer-created affidavits were later recanted as false. *See* Response to Request # 6. Nonetheless, to investigate Taft's theories, as described above and in the enclosures, Flexsteel took numerous

groundwater samples, which confirmed clean soil and clean shallow groundwater at Flexsteel's former properties, but shallow groundwater contamination and soil contamination to the north, on 2601 Marina Drive. Flexsteel also took soil samples in a tight grid across the width of the area of groundwater contamination in the southwest corner of the 2503 Marina Drive property, as well as in a loading dock. Flexsteel did not identify soil or groundwater contamination at the water table indicative of a contaminant source during Flexsteel's several investigations on the Marina and Cooper Drive properties (IDEM 2008 soil samples in this area, taken to a depth of 6-13 feet bsg, were also non-detect). In fact, there was neither soil nor groundwater contamination at any depth where many of the Taft attorney-drafted affidavits claimed that solvent was "dumped." Therefore, and in reliance on multiple lines of evidence, Flexsteel submits that the so-called "memories" in the lawyer-drafted affidavits are not accurate, and do not have any probative value as to the source of the Lane Street Groundwater Contamination.

In further answer, the environmental sampling data and other evidence gathered confirms sources at 2601 Marina Drive (former RE Jackson) and 3504/3506 Henke (former Environmental Test Systems), as described above and by the enclosures.

15. Was there ever a spill, leak, release, or discharge of hazardous substances into any subsurface disposal system or floor drain inside or under a building located at the Site? If the answer to the preceding question is anything but an unqualified "no", identify:

- a. Where the disposal system or floor drains were located;
- b. When the disposal system or floor drains were installed;
- c. Whether the disposal system or floor drains were connected to pipes;
- d. Where such pipes were located and emptied;
- e. When such pipes were installed;
- f. How and when such pipes were replaced, or repaired; and
- g. Whether such pipes ever leaked or in any way released hazardous substances into the environment.

RESPONSE:

Not at either of the Flexsteel Dygert Seating Division plants at the Marina Drive or Cooper Drive properties. On information and belief, there were no floor drains in the production areas of either the Marina or Cooper Drive plants. Flexsteel is not aware of any spills or releases into drains or disposal systems at these plants. None of the chemicals identified by the EPA in the CERCLA 104(e) Request, at Enclosure 1, have been identified in available septic samples for these properties, either.

See Flexsteel's Response to Question #3 regarding evidence of spills and releases of chemicals found in the groundwater today, at 2601 Marina Drive (former RE Jackson) and 3504/3506 Henke (former Environmental Test Systems).

16. Has any soil ever been excavated or removed from the Site? Unless the answer to the preceding question is anything besides an unequivocal "no", identify:

- a. Amount of soil excavated;
- b. Location of excavation;
- c. Manner and place of disposal and/or storage of excavated soil;
- d. Dates of soil excavation;
- e. Identity of persons who excavated or removed the soil;
- f. Reason for soil excavation;
- g. Whether the excavation or removed soil contained hazardous substances and why the soil contained such substances;
- h. All analyses or tests and results of analyses of the soil that was removed from the Site;
- i. All persons, including contractors, with information about (a) through (h) of this request.

RESPONSE:

Flexsteel is not aware of any soil excavation or removal at either 2503 Marina Drive or 3507 Cooper Drive, except (1) the removal of a small patch of soil to clean up an hydraulic oil spill in 2001 (*see* Response to Question # 8), and (2) on the west side of the 2503 Marina Drive building, a sewer line was reportedly installed in 1995, two years before Flexsteel began any operations at the property. Niblock advises Flexsteel that no soil would have been removed from 2503 Marina Drive when this sewer line was installed.

17. Provide information and documentation concerning all inspections, evaluations, safety audits, correspondence and any other documents associated with the conditions, practices, and/or procedures at the Site concerning insurance issues.

RESPONSE:

Flexsteel objects to this question as vague and unclear, and therefore interprets this question to seek information regarding inspections, evaluations, safety audits, and other similar documents pertaining to potentially hazardous substance usage at 2503 Marina Drive and 3507 Cooper Drive.

In addition to the environmental site assessments and other investigation activities previously described herein, Flexsteel engaged Safety Management Services to conduct Safety & Health Audits, including plant inspections, of the Dygert Seating Division of Flexsteel. These inspections may have occurred once a year or every two years. A 1998 plant inspection by Safety Management Services does not identify any improper storage, handling, or disposal of hazardous materials beyond a recommendation that

toluene stored within a flammable cabinet in the Jig & Tooling area also be stored in an appropriate grade container. The only other area of recommended improvement with respect to materials handling identified by Safety Management Services was a recommendation that non-hazardous Simple Green, as well as small bottles of glass cleaner, be properly labeled in the Warranty & Repair area.

Flexsteel also engaged Factory Mutual to conduct insurance inspections of the former Dygert Seating Division of Flexsteel properties once a year from 1998 through 2001. Several of these inspection reports describe "good housekeeping throughout."

The Dygert Seating Division of Flexsteel also participated in regular Elkhart County Health Department site inspections, and had its septic system water sampled at least once, in 1999.

Available records are enclosed.

Respectfully submitted,

FLEXSTEEL INDUSTRIES, INC.

By: Timothy E. Hall.

Its: Chief Financial Officer

Date: July 16th, 2014

CERTIFICATION

I hereby certify that the foregoing responses are true and correct to the best of my knowledge and belief based upon the information and records available to me.

FLEXSTEEL INDUSTRIES, INC.

By: Timothy E. Hall.

Its: Chief Financial Officer

Date: July 16th, 2014